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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,306	01/03/2002	Masahiko Inoue	501.38330CX1	8941

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EXAMINER

DOUGHERTY, ANTHONY T

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 11/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AVR

Office Action Summary

Application No.

10/034,306

Applicant(s)

INOUE ET AL.

Examiner

Anthony T. Dougherty

Art Unit

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-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3 is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other:

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 and 2 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 7 of U.S. Patent No. 6,341,258. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of U.S. Patent No. 6,341,258 clearly anticipates claims 1 and 2 of the instant application. Claim 1 of U.S. Patent No. 6,341,258 clearly shows a calculating device for a shaking test (see column 9 claim 1 line 1 through line 4) a vibration model which is a numerically model of a partial structure (see column 9 claim 1 line 5 through line 13) a numerical model which is virtually connected to the partial structure and which is a model of a remainder of the structure (see column 9 claim 1 line 2 through line 3), with a calculation part which identifies a vibration model corresponding to a partial structure on the basis of displacement and reaction force detected in response to shaking (see column 9 claim 1 line 5 through line 13), which combines a vibration model and a numerical with each other to construct a model of the overall system

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corresponding to the structure (see column 9 claim 1 line 13 through line 16), and calculates the shaking response of the overall system model (see column 9 claim 1 line 16 through line 17).

Allowable Subject Matter

2. Claim 3 allowed.

3. The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the allowance of claim 3 is the inclusion of the method step of constructing an overall system model by identifying the overall system model by renewing the overall system model after calculating the shaking response of the overall system model. It is this step found in each of the claims, as it is claimed in the combination, that has not been found, taught or suggested by the prior art of record which makes these claims allowable over the prior art.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,777,236 to Walls because it teaches using a numerical model to calculate structure stress from data gathered from structure stress defining equations.

U.S. Patent No. 5,841,040 to Walls because it teaches using a numerical model to calculate structure stress from data gathered from structure stress defining equations.

U.S. Patent No. 5,737,239 to Horiuchi et al. because it teaches a shaking test including a partial structure with a numerical model found by a shaking test and virtually connected to a numerical model of the rest of the structure to define an overall system.

U.S. Patent No. 5,388,056 to Horiuchi et al. because it teaches a shaking test including a partial structure with a numerical model virtually connected to a numerical model of the rest of the structure to define an overall system.

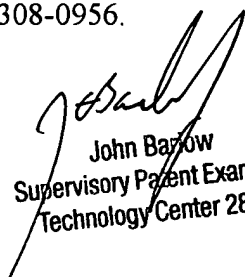
Japanese Patent No. JP 405332876 A because it teaches a shaking test apparatus including numerical models virtually connected to define the overall system model.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony T. Dougherty whose telephone number is (703) 305-4020. The examiner can normally be reached on Monday through Friday from 8 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on (703) 308-3126. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.


atd


John Barlow
Supervisory Patent Examiner
Technology Center 2800